

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

KATHRYN BAUMAN RUBENSTEIN,	)	
	)	
PLAINTIFF,	)	
	)	
VS.	)	CIVIL CASE NO.: 1:07cv798-MHT
	)	
BETTY JO BAUMAN, et al.,	)	
	)	
DEFENDANTS.	)	

**MOTION FOR SANCTIONS**

COME NOW the Defendants, JOEL W. WEATHERFORD; FARMER, PRICE, HORNSBY & WEATHERFORD, LLP; J. MICHAEL CONAWAY; JERE C. SEGREST; LEXA E. DOWLING; WILLIAM L. LEE, III, and LEE & McINISH, P.C., and respectfully move this Court for an Order pursuant to Rule 11 of the *Federal Rules of Civil Procedure* imposing sanctions against the Plaintiff, Kathryn Bauman Rubenstein on the following grounds:

1. Plaintiff purports to assert against these Defendants a federal Section 1983 case based on their supposed conspiracy “to defraud and deny Plaintiff her Civil Rights including due process in Houston County Circuit Court Case CV-02-5063 and the subsequent appeal before the Alabama Court of Civil Appeals and the Alabama Supreme Court.”

2. Attorneys Joel W. Weatherford of Farmer, Price, Hornsby & Weatherford, J. Michael Conaway, Jere C. Segrest, Lexa E. Dowling and William L. Lee, III, of Lee & McInish are private practicing attorneys in Dothan, Alabama. Attorneys Weatherford and Lee have represented during the pendency of CV-02-5063 various persons and entities who were sued by the Plaintiff, including Regions Bank, Brian Bickhaus, Pat Black, Robert Birmingham, Boyd Horn, Bryan Jordan, Marilyn Bauman Granger, Bennie Wayne Granger, Granger Unlimited, Inc., Barbara Bauman Kamensky, and

Allen E. Kamensky. Attorney Lexa E. Dowling is Guardian and Conservator of Betty Jo Bauman and she has been represented in that capacity in CV-02-5063 by attorney J. Michael Conaway. Attorney Jere C. Segrest has been Guardian Ad Litem during the pendency of CV-02-5063 for Betty Jo Bauman.

3. Although said attorneys Weatherford, Lee and Conaway have successfully defended and obtained dismissals of all claims against their clients in State Court and obtained affirmances on appeal, that conduct cannot, under any set of facts, violate a Federal Constitutional Right owed to the Plaintiff. Likewise, all claims against Lexa E. Dowling and Jere C. Segrest in their representative capacities have been dismissed in State Court and their conduct as such representatives cannot be deemed to violate a Federal Constitutional Right owed to the Plaintiff.

4. Even if Plaintiff could somehow establish the violation of a federally protected right that could form the basis of a 1983 case, these Defendants are not state actors. Therefore, Plaintiff can not possibly establish the elements of a successful 1983 case. *See Marshall County Board of Education v. Marshall*, 992 F.2d 1171, 1174-1175 (11th Cir. 1994).

5. In addition to Plaintiff's Complaint, as amended, being legally deficient and wholly without merit, Defendants also contend that it was filed solely for the purpose of harassment.

6. Rubenstein's conduct in filing and maintaining her cause of action against these Defendants violates Rule 11(b) in that:

a. Her cause of action is presented for the improper purpose of harassing these Defendants and needlessly increasing the cost of litigation;

b. Her claims and legal contentions are not warranted by existing law or by a nonfrivolous argument for the extension, modification or reversal of existing law or the establishment of new law; and

c. Her allegations and factual contentions in the Complaint, as amended, lack evidentiary support.

7. Rubenstein has refused to dismiss her Complaint, as amended, against these Defendants after being provided the required notice to do so pursuant to Rule 11(c)(1)(A). See letter dated October 12, 2007, to Rubenstein attached hereto as Exhibit "A" which was originally sent by certified mail on September 20, 2007, and returned by the U. S. Postal Service with the notation "Unclaimed" (see Exhibit "B") together with a memorandum to file attached hereto as Exhibit "C" referencing Rubenstein's telephone response to said letter.

WHEREFORE, based upon the foregoing, said Defendants request that this Court impose sanctions against the Plaintiff and award reasonable attorney's fees and expenses in presenting this motion.

Respectfully submitted,

RAMSEY, BAXLEY & McDOUGLE

By: Wade H. Baxley  
Wade H. Baxley (BAX004)  
Attorneys for Defendants,  
Joel W. Weatherford; Farmer, Price, Hornsby  
& Weatherford, LLP; J. Michael Conaway;  
Jere C. Segrest; Lexa E. Dowling; William L.  
Lee, III, and Lee & McInish, P.C.  
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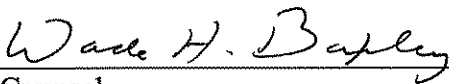
**CERTIFICATE OF SERVICE**

I hereby certify that on the 5<sup>th</sup> day of December, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification via e-mail of such filing to the following:

Don P. Bennett, Esq., [2bennett@comcast.net](mailto:2bennett@comcast.net)  
Bethany L. Bolger, Esq., [bbolger@rsjg.com](mailto:bbolger@rsjg.com)  
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Joel W. Weatherford Esq., [jweatherford@fphw-law.com](mailto:jweatherford@fphw-law.com)

and I further certify that I have this day served a copy of the foregoing pleading upon the persons listed below by hand-delivery or by placing the same in the United States Mail with adequate postage affixed thereto and addressed properly:

Kathryn Bauman Rubenstein  
P. O. Box 2243  
Dothan, AL 36302

  
\_\_\_\_\_  
Of Counsel

**Ramsey, Baxley & McDougale**

Attorneys at Law  
212 West Troy Street  
P. O. Drawer 1486

Dothan, Alabama 36302-4454

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J. Robert Ramsey (1906-1979)

Wade H. Baxley

Joel W. Ramsey

Charles H. McDougale, Jr.

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October 12, 2007

Kathryn Bauman Rubenstein  
P. O. Box 2243  
Dothan, AL 36302

Re: *Kathryn Bauman Rubenstein vs. Betty Jo Bauman, et al*  
*U. S. District Court for the Middle District of Alabama, Southern Division*  
*Civil Case No.: 1:07cv798-MHT*

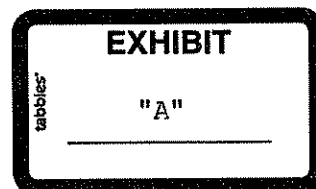
Dear Mrs. Rubenstein:

Please be advised that we represent the following Defendants named in your most recent lawsuit filed in the U.S. District Court for the Middle District of Alabama, Southern Division:

- 1) Joel W. Weatherford of Farmer, Price, Hornsby & Weatherford, LLP;
- 2) J. Michael Conaway;
- 3) Jere C. Segrest;
- 4) Lexa E. Dowling; and
- 5) William L. Lee, III, of Lee & McInish, P.C.

Pursuant to Rule 11 of the Federal Rules of Civil Procedure, I am writing this letter to you demanding that the claims against our clients be withdrawn since the allegations and theories, if any, set forth in your Complaint which are directed toward the above named parties fail to state a claim against said parties upon which relief may be granted. Additionally, this lawsuit is frivolous in that it lacks legal or factual bases to state claims against these parties and it appears that this lawsuit is filed in bad faith for the sole purpose of harassing these Defendants.

The enclosed Motion for Sanctions will be filed with the Court on behalf of my clients unless you withdraw your Complaint within twenty-one (21) days after your receipt of this letter and Motion. The enclosed Motion clearly advises you of the reasons that this demand is being made.



Ms. Kathryn Bauman Rubenstein  
October 12, 2007  
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The allegations and claims which you have made against our clients are totally without merit and appear to be a continuation of the unfounded and harassing claims you have previously made in the state court case in the Circuit Court of Houston County, Alabama. If you have failed to withdraw your Complaint against my clients within twenty-one (21) days of receipt of this letter, the enclosed Motion for Sanctions will be filed on behalf of said Defendants seeking all available remedies under Rule 11(c) including attorney's fees, costs etc.

Sincerely yours,

Wade H. Baxley

WHB:dm

Enclosure

pc: Joel W. Weatherford, Esq.  
J. Michael Conaway, Esq.  
Jere C. Segrest, Esq.  
Lexa E. Dowling, Esq.  
William L. Lee, III, Esq.

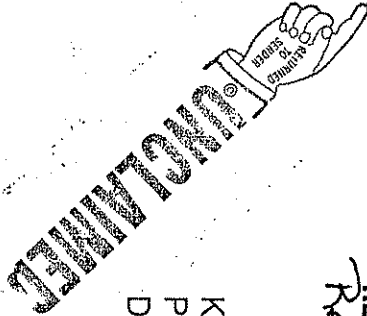
RAMSEY, BAXLEY & McDUGLE

ATTORNEYS AT LAW

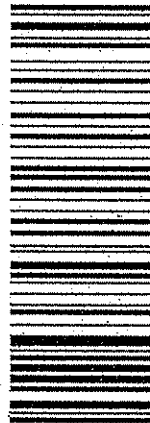
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DOTHAN, ALABAMA 36302-1486

Name GET 11 2007  
1st Notice             
2nd Notice             
Return           



CERTIFIED MAIL<sup>®</sup>



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RETURN RECEIPT REQUESTED  
*Restricted Delivery*

Kathryn Bauman Rubenstein  
P. O. Box 2243  
Dothan, AL 36302



HASLER

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09/20/2007

Mailed From 36303

US POSTAGE

*9-21*  
*9-27-07*  
*10-9-07*

EXHIBIT

"B"

501000

# MEMO

TO: Wade

FROM: Debbie

DATE: 10/17/07 @ 9:45 AM

RE: Kathryn Bauman Rubenstein vs. Weatherford, et al

Kathryn Bauman Rubenstein called. She said that you had written her a letter and that she had received it. She said to tell you that you need not waste anymore of your paper and ink by sending her such letters with baseless claims. Ms. Rubenstein stated that "she was her father's daughter" and that she will stand firm on all of her allegations. She then wished me to have a good day and hung up.

